

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 201910376	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/16/2019 12:17 PM	Location of Incident: § 87(2)(b)	Precinct: 105	18 Mo. SOL 1/16/2021	EO SOL 9/2/2021	
Date/Time CV Reported Mon, 12/02/2019 3:14 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/02/2019 3:14 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. POM Jonathan Pesce	11602	962686	105 PCT
4. POM Alan Delrosario	07223	960436	105 PCT
5. DTS Joseph Cordova	04396	920154	ESS 09
6. LSA Mark Lanigan	00000	895109	E S U

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Champion	00082	964981	105 PCT
2. POM Matthew Knudsen	21251	964097	105 PCT
3. SGT Justin Carlin	04694	950160	105 PCT
4. DTS David Cronemeyer	5182	948010	ESS 09
5. CPT Stephen Espinoza	00000	925246	E S U
6. CPT Kevin Chan	00000	938209	105 PCT
7. SGT Michael Faria	01322	946979	105 PCT
8. POM Brendan Schade	28542	967326	105 PCT
9. DTS David Mahoney	04871	906691	ESS 09
10. DT2 Robert Honeyman	00053	917764	ESS 09

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
C. LSA Mark Lanigan	Abuse: Lieutenant Mark Lanigan entered § 87(2)(b) in Queens.	§ 87(2)(b)
D. DTS Joseph Cordova	Abuse: Detective Joseph Cordova frisked § 87(2)(b)	§ 87(2)(b)
E. An officer	Abuse: An officer forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F.POM Alan Delrosario	Abuse: Police Officer Alan Delrosario searched § 87(2)(b)	
G.POM Jonathan Pesce	Force: Police Officer Jonathan Pesce tightly handcuffed § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via telephone on December 2, 2019, on behalf of herself and her son, § 87(2)(b).

On July 16, 2019, at approximately 12:17 p.m., § 87(2)(b) and her son, § 87(2)(b) were inside § 87(2)(b), from which they had been evicted. When § 87(2)(b) landlords could not get § 87(2)(b) and § 87(2)(b) to leave, they called 911. Officers from the 105th Precinct responded, including Sergeant Michael Faria and Police Officers Jonathan Pesce, Brendan Schade, and Alan Delrosario. Officers attempted to convince § 87(2)(b) to leave the house; when they were unsuccessful, officers from ESU and Hostage Negotiation arrived to assist, including Detectives David Cronmeyer and Joseph Cordova from ESU 9, and Lieutenant Mark Lanigan from ESU. One officer allegedly pulled § 87(2)(b) out of her side window and pushed her to the ground, after which he and several other officers cuffed her (**Allegations A and B: Physical Force**, § 87(2)(g)). Detectives Cronmeyer and Cordova then entered the home through the front door using a hydraulic tool (**Allegation C: Abuse of Authority- Entry**, § 87(2)(g)). Detective Cordova frisked § 87(2)(b) and escorted him out of the house (**Allegation D: Abuse of Authority- Frisk**, § 87(2)(g)). § 87(2)(b) was arrested and removed to the hospital, and § 87(2)(b) was removed to the hospital (**Allegation E: Abuse of Authority- Forcible Removal to the Hospital**, § 87(2)(g)). Before placing § 87(2)(b) in the ambulance, Police Officer Delrosario searched his pockets (**Allegation F: Abuse of Authority- Search of Person**, § 87(2)(g)). In the ambulance on the way to § 87(2)(b), Police Officer Pesce allegedly tightened § 87(2)(b) handcuffs (**Allegation G: Abuse of Authority- Handcuffs Tightened**, § 87(2)(g)). § 87(2)(b) was arrested for § 87(2)(b), and § 87(2)(b) was not arrested or summonsed.

BWC videos were received from many officers on scene, including Sergeant Faria and Police Officers Pesce and Delrosario (Board Review #01). They are attached in IA #60 and are summarized in IA #67 (Board Review #02).

Findings and Recommendations

Allegation (A) Force: An officer used physical force against § 87(2)(b)

Allegation (B) Force: Officers used physical force against § 87(2)(b)

Allegation (C) Abuse of Authority: Lieutenant Mark Lanigan entered § 87(2)(b) in Queens.

Allegation (D) Abuse of Authority: Detective Joseph Cordova frisked § 87(2)(b)

Allegation (E) Abuse of Authority: An officer forcibly removed § 87(2)(b) to the hospital.

Allegation (F) Abuse of Authority: Police Officer Alan Delrosario searched § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on December 12, 2019 (Board Review #03). Edward Guida, a city Marshal, provided a telephone statement on March 31, 2020 (Board Review #04).

§ 87(2)(b) one of the owners of § 87(2)(b) which owned § 87(2)(b) house, provided a telephone statement on April 7, 2020 (Board Review #05). § 87(2)(b), the attorney that represented § 87(2)(b) in court proceedings, provided a telephone statement on April 15, 2020 (Board Review #06). Contact attempts to § 87(2)(b) were unsuccessful. Police Officer Alan Delrosario was interviewed by the CCRB on August 14, 2020. Detective David Cronmeyer was interviewed by the CCRB on September 10, 2020. Detective Joseph Cordova was interviewed by the CCRB on September 25, 2020. Lieutenant Mark Lanigan was interviewed by the CCRB on October 1, 2020. Detective Daniel Keane was interviewed by the CCRB on June 22, 2021. Police Officer Jonathan Pesce was interviewed by the CCRB on August 4, 2021.

§ 87(2)(b) had previously owned § 87(2)(b) and was involved in a lengthy court proceeding that concluded with a final eviction notice that was posted on her door the day before the incident, according to § 87(2)(b), the attorney who represented § 87(2)(b) and Marshal Guida (Board Review #04, #06). Police Officer Pesce took photos of several documents during the incident, including the deed showing the property belonged to § 87(2)(b) as of November 7, 2018, the vacate order that was effective June 7, 2019, and the Marshal's Legal Possession document that was dated July 15, 2019, the day before the incident (Board Review #07).

On July 16, 2019, officers from the 105th Precinct, ESU, and other commands attempted to convince § 87(2)(b) to exit the home for several hours to no avail. § 87(2)(b) refused to exit and wielded several different tools to try to get the officers to leave; according to § 87(2)(b) she turned on an electric hedge trimmer, and according to officers, she threw matches and held up a hammer and a bottle of tiki torch fluid. BWC footage is consistent with the officers' testimonies.

As officers tried to negotiate with § 87(2)(b) they also tried to speak with § 87(2)(b) who was inside the home and was largely unresponsive. At the time of the incident, § 87(2)(b) was § 87(2)(b) old. Police Officer Delrosario is seen at 1:20 in his BWC footage attempting to talk to § 87(2)(b) then saying to his fellow officers, "He's not speaking to us" (Board Review #01). § 87(2)(b)'s behavior made PO Delrosario believe he was unable to care for himself, particularly during the dangerous situation of the incident that he was in.

Though all officers interviewed agreed that § 87(2)(b) somehow exited the house through the first-floor window, after which she was cuffed and placed in the ambulance, the nature of the exit is in dispute. § 87(2)(b) alleged that an officer named "Dan" opened her side window, pulled her out by her left arm, then threw her on the ground and cuffed her, with the help of about three other officers. The only description § 87(2)(b) could give of officer "Dan" was that he was a white male in a blue uniform. § 87(2)(b) could only describe the rest of the officers as mostly white males and one black male, and she could not offer any further descriptors.

According to the ESU roll calls received, the only "Dan" working during the incident was Detective Daniel Keane from ESU 10 (Board Review #08). However, Detective Keane was working at the command during the incident, according to his memo book and as he stated during his interview (Board Review #09). No officer saw or could remember which officers were involved in § 87(2)(b)'s exit from the house, and thus could not speak to the specific nature of the exit. § 87(2)(b) likewise did not know how § 87(2)(b) exited the house nor did she see officers pulling her out of the window. The ESU report, prepared by Detective Cronmeyer, indicated that § 87(2)(b) lost her balance leaning out of the window, after which she was assisted out by multiple officers (Board Review #10). Detective Cronmeyer could not remember which officer told him that she fell out. Finally, no BWC footage shows § 87(2)(b)'s exit; all the videos available stop long before she was allegedly removed and start again when she is already on the stretcher in cuffs, as seen in Sergeant Faria's last BWC video (Board Review #01).

After § 87(2)(b) was out of the house, Detectives Cordova and Cronmeyer entered the house through the front door using a hydraulic tool, as Detective Cronmeyer testified. Detective Cordova did not remember whether a supervisor specifically told them to enter the house at that time, but if they had, it would have been Lieutenant Lanigan. Lieutenant Lanigan stated in his interview that though he could not specifically remember ordering officers to enter, he likely would have done so because the vacate order gave them authority to clear the house and ensure that no one else was inside. The detectives went to the back of the house and found § 87(2)(b) sitting on a chair and he was cuffed without issue. Though Detective Cordova could not remember who frisked § 87(2)(b)

Detective Cronmeyer stated that Detective Cordova did so. Detective Cordova testified that it was common ESU procedure to frisk someone's reachable area in § 87(2)(b)'s situation to make sure that they did not have anything on them that could harm themselves or other people. Though he did not know whether § 87(2)(b) was being arrested or taken to the hospital, he noted that the procedure would be the same either way. After he was frisked, the detectives directed § 87(2)(b) to precinct officers outside; Police Officers Delrosario and Schade started walking him to an ambulance to be removed to a hospital. No officers interviewed knew or could remember who decided to send § 87(2)(b) to the hospital.

As seen in Police Officer Delrosario's final BWC video, § 87(2)(b) is wearing a shirt and pants underneath the hospital gown (Board Review #01). The video also shows that, before placing him in the back of the ambulance, Police Officer Delrosario entered § 87(2)(b)'s shirt and pants pockets and removed several items including headphones, § 87(2)(b)'s wallet, and papers. Police Officer Delrosario stated that he was trained in the academy to search someone before placing them into an ambulance for everyone's safety. However, Police Officer Delrosario also stated that § 87(2)(b) did not say or do anything that made him believe he was a danger to himself or to anyone else. He initially only remembered that § 87(2)(b) had headphones on his person, and, after reviewing his BWC footage, remembered that he also looked for § 87(2)(b)'s ID in his wallet.

Police Officer Pesce prepared an AIDED for § 87(2)(b) which noted that § 87(2)(b) was "found barricaded," "nonverbal," was observed wearing a hospital gown, and that a "family member stated he suffered from an unstable diabetic condition" (Board Review #11). BWC footage shows multiple officers, including Police Officer Delrosario, attempting to communicate with § 87(2)(b) but getting little verbal response or recognition. Police Officer Delrosario believed that, based on § 87(2)(b)'s behavior, he was unable to care for himself.

According to Patrol Guide Procedure 221-13, an Emotionally Disturbed Person ("EDP") is a person who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others (Board Review #12). Officers are authorized to take the EDP into protective custody in these cases, after which they are instructed to remove any property that is dangerous to life and then place the individual in an ambulance to be taken to a hospital. In People v. Salazar, 290 A.D.2d 256 [2002], the court found that officers' warrantless entry into an apartment in which an individual in a disturbed mental condition was seen wielding knives and making threats was justified under the emergency doctrine (Board Review #13). According to Patrol Guide Procedure 212-11, officers may only enter someone's pockets to remove items felt during a frisk that the officer reasonably suspects is a weapon (Board Review #20).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Force: Police Officer Jonathan Pesce tightly handcuffed § 87(2)(b)

§ 87(2)(b) alleged that she told the officer who transported her in the ambulance that her handcuffs were too tight multiple times. Each time, he tightened them more.

The Medical Transport of Prisoner Report indicated that Police Officer Pesce escorted § 87(2)(b) to § 87(2)(b) (Board Review #14). Police Officer Pesce did not believe he tightened § 87(2)(b) handcuffs after each time she said they were too tight and was not aware of any other officer doing so. He stated that he never made physical contact with § 87(2)(b) and did not remember making any physical contact with her handcuffs or seeing any other officer doing so. She was screaming and flailing her legs when she got into the ambulance, but he did not remember her complaining that she was in pain. No video footage was available from the inside of the ambulance during the ride to the hospital.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) (Board Review #15) and § 87(2)(b) (Board Review #16) have been parties.
- Lieutenant Mark Lanigan has been a member-of-service for 32 years and has been named a subject in two complaints and two allegations, one of which was substantiated.
 - 9902347 involved a substantiated allegation of discourtesy-word. The Board recommended charges.
 - § 87(2)(g)
- Detective Joseph Cordova has been a member-of-service for 23 years and has been named a subject in two complaints and three allegations, none of which was substantiated.

§ 87(2)(g)
- Police Officer Alan Delrosario has been a member-of-service for five years and has been named a subject in one complaint and two allegations, neither of which was substantiated.

§ 87(2)(g)
- Police Officer Jonathan Pesce has been a member-of-service for four years and has been named a subject in two complaints and four allegations, none of which were substantiated.

§ 87(2)(g)

- This case was not suitable for mediation.
- A Notice of Claim search request was submitted to the NYC Office of the Comptroller on August 3, 2021 (Board Review #17). The results of the search will be included in the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Investigator:	<u>Esme Trontz</u>	<u>Inv. Esme Trontz</u>	<u>08/20/2021</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u> </u>	<u>Manager Vanessa Rosen</u>	<u>August 20, 2021</u>
	Signature	Print Title & Name	Date
Reviewer:	<u> </u>	<u> </u>	<u> </u>
	Signature	Print Title & Name	Date